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A Limited Liability Partnership

2 Including Professional Corporations

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11 Attorneys for Petitioner

DAILYDEALS.COM, INC.

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 DAILYDEALS.COM, INC., )

Case No. CV 07-80135 JSW (MEJ)

18 )  
Petitioner, )

19 v. )

NOTICE OF SETTLEMENT OF

20 UNDERLYING CASE TO WHICH THIS

ONLINENIC, INC., )

MISCELLANEOUS ACTION IS

21 Respondent. )

RELATED

22  
23 Honorable Maria-Elena James  
United States Magistrate Judge

1 TO THE HONORABLE COURT AND TO ALL INTERESTED PARTIES:

2 This miscellaneous action arose because Respondent OnlineNIC, Inc. failed to  
3 respond to a subpoena served by Petitioner DailyeDeals.com, Inc. That subpoena was served in  
4 connection with the Southern District of California action entitled *DailyeDeals.com, Inc. v.*  
5 *ECoupons, Inc.*, S.D. Cal. Case No. 06-CV-1522-L-JMA (the "Underlying Action").  
6

7 Today, August 1, 2007, the parties to the Underlying Action executed a settlement  
8 agreement. However, the settlement agreement requires certain actions to be taken by the  
9 defendants over the coming months before the Underlying Action is dismissed by  
10 DailiyeDeals.com, Inc. Pursuant to the terms of the non-confidential settlement agreement,  
11 DailyeDeals.com will not dismiss the Underlying Action until the defendants thereto have fulfilled  
12 certain terms and conditions of the settlement agreement, including payment of \$750,000.00  
13 within 80 days.

14 This Court has scheduled a hearing for tomorrow, August 2 at 10:00 a.m. on its  
15 Order To Show Cause why OnlineNIC, Inc. should not be held in contempt for failing to comply  
16 with DailyeDeals.com, Inc.'s subpoena. (Order dated July 2, 2007, Docket No. 6). Petitioner  
17 DailyeDeals.com, Inc. brings the above information to the Court's attention for consideration in  
18 connection with said hearing.

19 Counsel for Petitioner DailyeDeals.com, Inc. plans to appear at the scheduled  
20 hearing tomorrow to discuss how the Court would like to proceed with this Petition and the Order  
21 To Show Cause in view of the settlement of the Underlying Case.

22 The Court may determine that, because the Underlying Action has not been  
23 dismissed, it is best to proceed with taking immediate action on its Order To Show Cause  
24 regarding OnlineNIC, Inc. at tomorrow's hearing. However, if the Court does not wish to take  
25 action on its Order To Show Cause regarding OnlineNIC, Inc. at this juncture given the existence  
26 of a settlement agreement, Petitioner respectfully requests that, because the settlement agreement  
27 in the Underlying Action still requires the defendants thereto to meet certain material conditions,  
28

1 and because the Underlying Action will not be dismissed until those conditions are met, the  
2 hearing on the Court's Order To Show Cause be continued by 90 days. Such a continuance would  
3 at least protect Petitioner's right to obtain the documents sought by its subpoena to OnlineNIC,  
4 Inc. in the event that the defendants to the Underlying Action fail to fulfill material conditions of  
5 the settlement agreement and DailyeDeals.com., Inc. (Petitioner herein) is forced to proceed with  
6 the Underlying Action. Petitioner DailyeDeals.com, Inc. will submit the matter to the Court for  
7 the Court's determination of how best to proceed and what other or further relief may be granted.

8 This Notice is being served on Respondent OnlineNIC, Inc. and the parties to the  
9 Underlying Action as indicated on the attached proofs of service.

10 Respectfully Submitted:

11 DATED: August 1, 2007

12 SHEPPARD MULLIN RICHTER & HAMPTON LLP

13  
14 By /s/ Nathaniel Bruno

15 ROBERT S. GERBER  
16 NATHANIEL BRUNO  
17 MICHAEL MURPHY

18 Attorneys for Petitioner  
19 DAILYDEALS.COM, INC.  
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO


I am employed in the County of San Francisco; I am over the age of eighteen years and not a party to the within entitled action; my business address is Four Embarcadero Center, 17th Floor, San Francisco, California 94111-4109.

On **August 1, 2007**, I served the following document described as **NOTICE OF SETTLEMENT OF UNDERLYING CASE** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

OnlineNIC, Inc.  
c/o Rex Liu (Registered Agent for Service)  
2315 – 26th Avenue  
San Francisco, CA 94116

- ☐ **BY MAIL:** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.
- ☐ **BY OVERNIGHT DELIVERY:** I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.
- ☐ **BY FACSIMILE:** I served said document(s) to be transmitted by facsimile pursuant to Rule 2.306 of the California Rules of Court. The telephone number of the sending facsimile machine was 415-434-3947. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The sending facsimile machine (or the machine used to forward the facsimile) issued a transmission report confirming that the transmission was complete and without error. Pursuant to Rule 2.306(g)(4), a copy of that report is attached to this declaration.
- ☒ **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the office of the addressee.
- ☐ **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **August 1, 2007**, at San Francisco, California.

  
\_\_\_\_\_  
Jane Gors

PROOF OF SERVICE

I am employed in the County of San Francisco; I am over the age of eighteen years and not a party to the within entitled action; my business address is Four Embarcadero Center, 17th Floor, San Francisco, California 94111-4109.

On **August 1, 2007**, I served the following documents described as


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**See Attached Service List**

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Executed on **August 1, 2007**, at San Francisco, California.

  
Jane Gors

SERVICE LIST

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(Parties to Southern District of California  
Case No. 06 CV 1522 H (JMA) to which this  
miscellaneous action is related.)

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Trang T. Pham

(Parties to Southern District of California  
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